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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/601,931	06/23/2003	Denis Michael O'Brien	CCWO:002US	8094
32425	7590	08/25/2004	EXAMINER	
FULBRIGHT & JAWORSKI L.L.P. 600 CONGRESS AVE. SUITE 2400 AUSTIN, TX 78701			PARSLEY, DAVID J	
			ART UNIT	PAPER NUMBER
			3643	

DATE MAILED: 08/25/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/601,931

Applicant(s)

O'BRIEN ET AL.

Examiner

David J Parsley

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 23 June 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 June 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 11-25-03
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **Detailed Action**

### ***Claim Objections***

1. Claim 5 is objected to because of the following informalities: in line 2 “a” should be deleted. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-6, 8, 10, 15-17 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,724,312 to Barber et al.

Referring to claim 1, Barber et al. discloses an apparatus comprising, an animal trap – at 110 or 310 or 410, a wireless radio frequency transmitter – at 160-166 or 360-390, coupled to the animal trap, the wireless radio frequency transmitter transmitting a series of signals at substantially random intervals upon activation of the animal trap – see for example columns 5-7

and 10-11, and a receiver – at 30,34, configured to receive the series of signals from the wireless radio frequency transmitter.

Referring to claim 2, Barber et al. discloses the radio frequency transmitter comprises an outer housing – see figure 4, a transmit circuit – at 32, 160, 163, 167, an antenna – at 162, and a power source – see for example figure 5.

Referring to claim 3, Barber et al. discloses the transmit circuit comprises a timer circuit – 32 and/or 163, and see for example column 7 lines 12-35, an encoder/processor circuit – at 167, controlled by the timer circuit and a transmitter circuit – at 160 – see for example columns 4-7.

Referring to claim 4, Barber et al. discloses the animal trap is a live animal trap – see for example column 4 lines 10-22.

Referring to claim 5, Barber et al. discloses the wireless radio frequency transmitter includes a trap activation sensor – at 150-154 or 350-354.

Referring to claims 6 and 8, Barber et al. discloses the trap activation sensor – at 150-154 is a disturbance switch/proximity switch – see for example column 4 lines 33-56.

Referring to claim 10, Barber et al. discloses the wireless radio frequency transmitter is mounted on a door or frame of the live animal trap – see for example figures 1-3 and 8 where the transmitter is mounted on the frame.

Referring to claim 15, Barber et al. discloses a plurality of transmitters – see figures 1-2 and 5.

Referring to claim 16, Barber et al. discloses the receiver comprising, an antenna – proximate 34 as seen in figure 5, to receive the series of signals, a signal receiver circuit – at 34,

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coupled to the antenna – see figure 5, a decoder/processor circuit – at 36, coupled to the receiver circuit, an alert mechanism – see for example column 6 lines 66-67 and column 7 lines 1-11, and a power source – see for example column 6 lines 30-53 and figure 5.

Claims 17 and 22-24 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 6,202,340 to Nieves.

Referring to claims 17 and 23, Nieves discloses a wireless animal trap detection kit capable of being assembled in the filed to be electrically coupled to a spring-loaded rodent/animal trap/cage, the kit comprising the combination of, a wireless transmitter – at 200, configured to be electrically coupled to a spring-loaded rodent/animal trap – at 10, to form a closed circuit such that activation of the spring-loaded rodent/animal trap opens the circuit and to transmit at least one signal upon activation of the spring-loaded rodent/animal trap – see for example figures 4-5 and column 6 lines 51-59, a mounting mechanism – see figure 3, adapted to affix the wireless transmitter to the live animal trap, a connector – see figures 3-5, adapted to electrically couple the wireless transmitter to the spring-loaded animal trap and a receiver (not shown) locatable at a remote distance from the wireless transmitter and configured to receive the at least one signal from the wireless transmitter and to alert a user of activation of the spring-loaded rodent/animal trap – see for example figures 3-5 and column 6 lines 51-59 where it is inherent that a receiver is used in conjunction with the transmitter – 200. Further, see the Barber et al. reference (as seen above) for a teaching of a transmitter and receiver being used in conjunction on an animal trap.

Referring to claims 22 and 24, Nieves discloses the at least one signal comprising a series of signals transmitted at substantially random intervals – see for example figures 3-5 and column

6 where signals are only sent out when an animal activates the trap and the animals enter the trap at random periods and therefore a series of signals generated by the device in response to multiple animals entering the trap are sent at random intervals depending on when the animals enter the trap.

*Claim Rejections - 35 USC § 103*

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 7 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Barber et al. as applied to claim 5 above, and further in view of U.S. Patent Application Publication No. 2003/0213161 to Gardner et al.

Referring to claim 7, Barber et al. does not disclose the activation sensor is a tilt switch. Gardner et al. does disclose the activation sensor is a tilt switch – at 12 – see for example paragraph [0040]. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Barber et al. and add the activation sensor being a tilt switch of Gardner et al., so as to allow for animal activity to be monitored in and around the animal trap.

Referring to claim 11, Barber et al. as modified by Gardner et al. further discloses the trap activation sensor – at 150-154 or 350-354 of Barber et al., operates to supply power to a timer circuit – at 32, 160, within the wireless radio frequency transmitter enabling the wireless

radio frequency transmitter to begin transmission of the series of signals – see for example column 7 lines 12-35 of Barber et al.

Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Barber et al. as applied to claim 5 above, and further in view of U.S. Patent No. 6,775,946 to Wright. Barber et al. does not disclose the activation sensor is a magnetic switch. Wright does disclose the activation sensor – at 121 is a magnetic switch – see for example column 2 lines 37-44. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Barber et al. and add the activation sensor being a magnetic switch of Wright, so as to allow for animal activity in the trap to be accurately monitored.

Claims 12-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Barber et al. as applied to claim 1 above, and further in view of U.S. Patent No. 6,202,340 to Nieves.

Referring to claim 12, Barber et al. does not disclose the trap comprising a spring-loaded rodent/animal trap. Nieves does disclose the trap – at 10, comprises a spring-loaded – at 80, rodent/animal trap – see for example figures 1-2. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Barber et al. and add a spring-loaded rodent trap of Nieves, so as to allow for the trap to electrically indicate to a user the presence of an animal in the trap.

Referring to claim 13, Barber et al. as modified by Nieves further discloses the wireless radio frequency transmitter being coupled to the animal trap by electrical contacts – at 151-154 or 351-354 – see for example figures 3-4 and 7-8 of Barber et al.

Referring to claim 14, Barber et al. as modified by Nieves further discloses activation of the animal trap activates a timer circuit – at 32, 160, within the wireless radio frequency

transmitter enabling the wireless radio frequency transmitter to begin transmission of the series of signals – see for example column 7 lines 12-35 of Barber et al.

Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Nieves as applied to claim 17 above, and further in view of U.S. Patent No. 6,445,301 to Farrell et al. Nieves does not disclose the mounting mechanism comprising a hook and loop fastener. Farrell does disclose the mounting mechanism comprising a hook and loop fastener – see for example column 5 lines 18-41. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Nieves and add the mounting mechanism being a hook and loop fastener, so as to allow for the transmitter to be removably mounted to the animal trap.

Claims 19-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nieves as applied to claim 17 above, and further in view of Barber et al.

Referring to claims 19-20, Nieves does not disclose the mounting mechanism is a clip or a clamp. Barber et al. does disclose the mounting mechanism is a clip – see figures 3, 7 and 17 or is a clamp – see figures 3, 7 and 17. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Nieves and add the mounting mechanism being a clip or a clamp of Barber et al., so as to allow for the transmitter to be removably mounted to the animal trap.

Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Nieves as applied to claim 17 above. Nieves does not disclose the mounting mechanism is a cable tie, however it would have been obvious to one of ordinary skill in the art to take the device of Nieves and add the mounting mechanism being a cable tie, so as to allow for the transmitter to be removably mounted to the animal trap.



*Conclusion*

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The following patents are cited to further show the state of the art with respect to electrical animal traps in general:

U.S. Pat. No. 4,275,523 to Baima et al. – shows animal trap with RF transmitter

U.S. Pat. No. 5,005,416 to Vick et al. – shows animal trap with transmitter

U.S. Pat. No. 5,154,017 to Disalvo – shows mouse trap with transmitter

U.S. Pat. No. 6,067,018 to Skelton et al. – shows RF transmitter and receiver

U.S. Pat. No. 6,275,159 to Pinnow et al. – shows phone operated by RF device

U.S. Pat. No. 6,364,834 to Reuss et al. – shows remote RF device

U.S. Pat. Appl. Pub. No. 2003/0160699 to Trompen – shows RF on animal trap

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David J Parsley whose telephone number is (703) 306-0552. The examiner can normally be reached on 9hr compressed.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Poon can be reached on (703) 308-2574. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

DP

David Parsley  
Patent Examiner  
Art Unit 3643



**PETER M. POON**  
**SUPERVISORY PATENT EXAMINER**

8/20/07